

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

IN RE: BLUE CROSS BLUE SHIELD  
ANTITRUST LITIGATION  
(MDL No. 2406)

)  
) **Master File**  
) **No. 2:13-CV-20000-RDP**  
)  
) This document relates to all cases.  
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**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON  
PLAINTIFFS' SECTION 1, PER SE, AND QUICK LOOK CLAIMS**

Defendants hereby move pursuant to Federal Rule of Civil Procedure 56, for an order granting summary judgment for Defendants on Plaintiffs' Section 1, per se, and quick look claims. Defendants are entitled to summary judgment because there is no issue of material fact with respect to the following issues.

First, § 1 of the Sherman Act does not apply to Plaintiffs' per se claims for two independent reasons: (1) the Blue System operates as a single entity with respect to governance of the use of the Blue Marks, and (2) service areas derive from independently acquired common-law trademark rights, not any unlawful agreement.

Second, even if § 1 were applicable to some of Plaintiffs' claims, the rule of reason must apply for three independent reasons: (1) the undisputed facts show the challenged rules might foster plausible procompetitive benefits (indeed they do); (2) Plaintiffs cannot show that lengthy judicial experience condemns the challenged rules as anticompetitive; and (3) the challenged rules are not purely horizontal. For similar reasons, quick look also does not apply.

For these reasons, and those set forth in Defendants' accompanying Brief in Support of their Motion for Summary Judgment on Plaintiffs' Section 1, Per Se, and Quick Look Claims, Defendants respectfully request that the Court grant their Motion in its entirety and analyze

Plaintiffs' claims under the monopolization or attempted monopolization standards under § 2 of the Sherman Act or, in the alternative, the rule of reason.

Dated: July 17, 2017

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 17, 2017, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record.

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